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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,199	03/30/2001	Ronald W. Marsh	P-4154P1	1238

7590 03/27/2002

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EXAMINER

LAM, ANN Y

ART UNIT PAPER NUMBER

3763

DATE MAILED: 03/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/823,199	Applicant(s) MARSH ET AL.	
	Examiner Ann Y. Lam	Art Unit 3763	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other:  |

**DETAILED ACTION**

***Information Disclosure Statement***

The information disclosure statement filed March 30, 2001 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. (A copy of the foreign patent documents listed in the IDS was not found in the application file.)

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Pohndorf, 5,613,953. Pohndorf discloses an elongate tube (10) defining a longitudinal axis having a proximal end, a distal end and an axial hollow bore, a hub (20) having a proximal end, a distal end and an open passageway therethrough, said hub being attached to said elongate tube so that said hollow bore of said elongate tube is in fluid communication and substantial axial alignment with said open passageway, said hub

further having a cavity therein disposed between said proximal end and said distal end of said hub; a resilient member (12) having an opening therethrough defining an inner diameter and disposed in said cavity so that said opening is substantially axially aligned and in fluid communication with said open passageway; and a clamp (82 and 82a) selectively movable between an open position wherein said inner diameter member is substantially unaffected and a clamp position wherein said clamp causes a strain to at least a portion of said resilient member thereby reducing said inner diameter of said opening through at least a portion of said resilient member.

As to claim 2, at least a portion of said clamp (82 and 82a) projects outwardly from said hub.

As to claims 3 and 12, said portion of said clamp that projects outwardly from said hub further includes a releasable latch (90).

As to claims 4 and 13, a push tab extends away from the releasable latch (90), see Figure 3.

As to claims 5 and 14, the push tab is oriented for movement perpendicular to the elongate tube, see Figure 3.

As to claims 6 and 15, a support leg limits movement of the latch, see Figure 3.

As to claims 7 and 16, the clamp (82 and 82a) includes a pair of legs defining at least one radiused portion therein, see Figure 3.

As to claims 8 and 17, the resilient member (12) defines a radiused portion and the radiused portion of the pair of legs has a radius substantially the same as the radiused portion of the resilient member, see Figure 3.

As to claims 9 and 18, the pair of legs defines a second radiused portion adjacent to the at least one radiused portion, see Figure 1A.

As to claim 10, an epidural needle is disclosed at (10) and a spinal needle as claimed is disclosed in column 3, line 23.

As to claim 11, the spinal needle is considered to include an indicia (for example, the proximal end of spinal needle) for providing indication to the practitioner of the location of the spinal needle with respect to the epidural needle.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on T-F 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (703)308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)306-4520 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

A.L.

March 24, 2002

  
ANH TUAN T. NGUYEN  
PRIMARY EXAMINER

3/25/02